

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

1 *In re:*

2 PONDEROSA ENERGY LLC and GS ENERGY LLC,  
3 *Debtors.*

Case No. 17-13484-shl  
New York, New York  
August 1, 2018  
11:07 a.m. - 11:44 a.m.

4  
5 17-13484-SHL, PONDEROSA ENERGY LLC AND GS ENERGY LLC  
6 MOTION FOR OBJECTION TO CLAIM NUMBER 13 OF THE CITY OF THE  
7 NEW YORK DEPARTMENT OF FINANCE (DOC #101); NOTICE OF  
PROPOSED ORDER CONFIRMING CHAPTER 11 PLAN OF LIQUIDATION;  
AND COMBINED DISCLOSURE AND CONFIRMATION HEARING.

8 BEFORE THE HONORABLE SEAN H. LANE  
UNITED STATES BANKRUPTCY JUDGE

9 A P P E A R A N C E S :

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24  
25 (Proceedings recorded by electronic sound recording)

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1                   THE COURT: We are here this morning for Ponderosa  
2 Energy LLC and GS Energy LLC confirmation hearing. Let me get  
3 appearances from counsel.

4                   MR. RUBIO: Good morning, Judge Lane, Charles Rubio,  
5 with the Law Firm of Diamond McCarthy, on behalf of the Debtors.  
6 With me in the courtroom we have Mr. Richard Sands and Mr. Cory  
7 Meadows, and they're both representatives of the Debtors.

8                   THE COURT: All right. Good morning. Staying on this  
9 side of the room.

10                  MR. MORRISSEY: Good morning, Your Honor, Richard  
11 Morrissey, for the U.S. Trustee.

12                  THE COURT: Good morning.

13                  MR. JOHNSTON: May it please the Court, Kenneth  
14 Johnston from Dallas, Texas, representing Molori Energy. With  
15 me in the courtroom are Joel Dumaresq and behind him, David  
16 Jones. Thank you.

17                  THE COURT: All right. Good morning. Good to see  
18 you. I appreciate your travels here today to get there.

19                  MR. JOHNSTON: For the record, Your Honor, I  
20 appreciate your staff. They did a good job of getting me  
21 admitted to the Court, so I appreciate that.

22                  THE COURT: All right. Happy to hear that. I have  
23 the benefit of some wonderful people working for me, who handle  
24 a lot of the business of keeping the line moving. And in those  
25 matters, you're in better hands than you would be with me. All

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1 right. So, I know there's an objection. I've read the  
2 objection; I've read the attachments to the objection. I know  
3 people were setting up for a presentation, and then I heard they  
4 weren't setting up for a presentation. So, you can tell me  
5 whether I'm reading tea leaves correctly or not correctly as to  
6 whether things stand. I'll hear from everybody who wants to be  
7 heard.

8 MR. RUBIO: Thank you, Your Honor. Again, for the  
9 record, Charles Rubio. We are pleased to announce that with the  
10 one objection that was filed, we have reached resolution on  
11 language that we'd like to insert into the proposed confirmation  
12 order. We have a copy of that order redlined from the version  
13 filed that includes that language that's going to resolve the  
14 dispute.

15 As Your Honor may have seen, the nature of the dispute  
16 arises from the Molori affidavit that was given in connection  
17 with the PPF settlement. There were concerns by both parties;  
18 one from the Debtors' side that the Molori affidavit and the  
19 issues around it could be used to undermine the events that  
20 occurred in the case. And from the other side, there were  
21 issues that the exculpation release provisions and the  
22 injunction provisions in the plan may prevent third party  
23 litigation. So, the compromise litigation really addresses both  
24 sides' concerns with these issues.

25 THE COURT: All right. Let me take a look at the

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1 language. That would be great. Anything you wanted to add?

2 MR. JOHNSTON: May it please the Court. No, Your  
3 Honor. We concur with what Mr. Rubio said.

4 THE COURT: All right. So, what page should I be  
5 looking on?

6 MR. RUBIO: You're want to go to -- I believe it  
7 starts on Paragraph 'EE' on Page 7.

8 THE COURT: 'EE' on Page 7.

9 MR. RUBIO: And I believe everyone in the courtroom  
10 has it, but I have extra copies if anyone needs it.

11 THE COURT: All right. Anybody need a copy?

12 (No response.)

13 THE COURT: All right. So, 'EE'. Give me one second.  
14 And I guess it goes on for about a page and a half, so just give  
15 me a second to read everyone. Is there anything you want to put  
16 on the record, particularly? Or since this is going to go in  
17 the order, I should just read it?

18 MR. RUBIO: That's correct.

19 THE COURT: All right. So, give me a second.

20 (Pause.)

21 THE COURT: All right. I got through it. So, it  
22 basically is in a sense, and I don't know who was responsible  
23 for filing this statement in the Texas State Court, but it seems  
24 to essentially nullify that statement that somehow there's  
25 something in the confirmation or settlement here that affects

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1 the rights of the parties in the Texas State Court action. Am I  
2 reading sort of the take-away correctly?

3 MR. RUBIO: I can let Mr. Johnston verify that, but in  
4 particular there was concern that the sale order and the  
5 language in the sale order could have prevented third-party  
6 litigation against Ponderosa state. So, that in particular was  
7 addressed by that "for avoidance of doubt" language located in  
8 'FF'?

9 THE COURT: 'FF', right.

10 MR. RUBIO: And I will turn it over to Mr. Johnston if  
11 he wants to add anything to that.

12 THE COURT: Because if I'm understanding, reading the  
13 tea leaves right, it was that statement saying that the events  
14 in the bankruptcy somehow prevented you from going ahead with  
15 your lawsuit in Texas State Court?

16 MR. JOHNSTON: Yes, Your Honor. So, just a little  
17 more background. In the state court litigation, which has been  
18 going on since 2015, Molori intervened in that case fairly  
19 recently. There was a motion to strike that intervention filed  
20 in the state court. And it essentially said that you have  
21 jurisdiction. And that was our exclusive right. It even talked  
22 about *res judicata* and things of that nature.

23 Before that, we were aware of the plan. Has some  
24 questions about the breadth of the injunctive release, but I  
25 thought we would just fight that fight at a later date. It just

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1 so happened the plan hadn't been confirmed yet; we get the  
2 motion to strike; it just kind of made sense to come to court  
3 now to get the clarification. Our hope is that when we leave  
4 here, we never have to come back to Your Honor on this case  
5 about these issues. And that state court litigation may go  
6 forward against non-debtor entities.

7 THE COURT: All right. Thank you. So, I had two  
8 questions, one of which is in the language here. Paragraph 3  
9 says the Debtors do not owe Molori any consideration for the  
10 Molori affidavit. It's sort of an odd phrasing so I'm not quite  
11 sure what I should take away from that, or even how to consider  
12 that. So, what's the intent there?

13 MR. RUBIO: My understanding from the state court law  
14 suit, there's some allegations that, potentially, a third party  
15 may owe some consideration for the Molori affidavit, and this is  
16 intended to clarify that. In fact, that is the case that it's  
17 not the Debtors that would owe any consideration for that.

18 THE COURT: All right. From my point of view, one, I  
19 appreciate that you attached the pleadings from the Texas State  
20 Court. It was helpful to read those to get a sense of these  
21 things, because obviously, I'm no expert and no one is asking me  
22 to become an expert in what's going on in the Texas State Court,  
23 but to the extent that it's obviously in play here. The reason  
24 why I asked is because Number 3, you don't want anyone to have  
25 sort of an untoward kind of reading of that, that makes it sound

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1 like there's some sort of undisclosed deal somewhere. So, maybe  
2 you could tweak Paragraph 3 to basically give the context you  
3 just gave me. To say there may be some suggestion in the state  
4 court action in Texas that there is a party that owes  
5 consideration for the Molori affidavit. The parties, the  
6 Debtors and the objecting party agree that the Debtor's don't  
7 owe any such consideration. Does that do any harm to your  
8 language?

9 MR. RUBIO: I think the Debtors are fine with that  
10 clarification.

11 MR. JOHNSTON: Again, Kenneth Johnston for the record.  
12 The get from Molori's perspective was that we are not going to  
13 seek any consideration from this bankruptcy estate for what we  
14 are litigating about in Texas.

15 THE COURT: Right. And I'm perfectly fine with that.  
16 It's just a slightly unusual phrasing that they don't owe in the  
17 present tense any consideration for the Molori. All right.  
18 That's fine. I'll trust you to wordsmith it just to make it  
19 clear that basically there's an issue about whether your client  
20 is owed consideration in the states court proceeding, and that  
21 you've agreed not to seek it against the Debtors in this case.

22 MR. JOHNSTON: Your Honor, for what it's worth, my  
23 client representative actually came and knocked me on the  
24 shoulder and said hey, I have a question about this as well.  
25 So, I appreciate the clarity.

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1                   THE COURT: (Laughing.) All right. Well, you know,  
2 great minds think alike. Or my grandmother used to day, fools,  
3 seldom differ. I'll go with the first. And so, the other  
4 question I have doesn't relate so much to the language here, but  
5 just something that occurred to me before I came out, which is,  
6 obviously, it has to do with the lease provisions. And I assume  
7 we're talking about the language in the settlement as opposed to  
8 the confirmation order? They track one another.

9                   The reason why I ask is, I'm trying to figure out who  
10 is covered. It's a liquidating plan, so obviously, it's  
11 appropriate to have sort of what I'd call usual releases,  
12 meaning actions in connection with the prosecution of the case,  
13 and all that sort of good stuff. But I don't know if there's  
14 any questions or concerns about releases beyond the scope of  
15 that. Third party releases essentially. And that's when I was  
16 reading the objection and trying to track the parties at issue  
17 in the state court case. Let me go back and look at the caption  
18 here just to make sure that there were no other parties other  
19 than the two Debtors. So, I don't know if you can address that  
20 question.

21                   MR. RUBIO: Yes, Your Honor. And actually Mr.  
22 Morrissey raised the same issue and asked me to address the  
23 release injunction and exculpation provisions with the Court.  
24 So, it seems like the appropriate time. Mr. Morrissey might  
25 have something to say.

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1                   MR. MORRISSEY: Your Honor, actually, if I could, I'd  
2 like to go back to what you all were discussing before with the  
3 redline. And Your Honor mentioned the word "release". There is  
4 a new Paragraph 13, which appears on Page 14 of the redline. It  
5 seems to say a lot of the same things that that Paragraph 'XX'  
6 said beginning on Page 8 into Page 9. But I just wanted to make  
7 sure Your Honor was aware of the fact that it's there as well.

8                   THE COURT: Oh, all right. Yeah, I hadn't read that,  
9 so give me a second.

10                  (Pause.)

11                  THE COURT: All right. Yep. So, maybe you can just  
12 give sort of a general overview of what's purported to be  
13 released in this liquidating plan.

14                  MR. RUBIO: Yes. So, I'll just do a quick rundown of  
15 the release injunction and exculpation provisions in the plan.  
16 The release provisions in the plan are releases by claim holders  
17 and creditors of the case, who consent to the releases. So, we  
18 had sent out ballots to the creditors and we included an opt-out  
19 provision in that ballot. So, how the Debtors construe that is  
20 that in order to consent to the releases, they would have had to  
21 submit their ballot and not check the opt-out provision. And we  
22 had one party that did that. So, with respect to the releases  
23 of the creditors, the only releases are the one creditor that  
24 has submitted a ballot, and Molori, who has agreed to certain  
25 specified releases.

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1 THE COURT: All right.

2 MR. RUBIO: The injunction provisions in the plan are  
3 injunctions against any parties taking actions against claims  
4 that were asserted or could have been heard in the case just to  
5 prevent future litigation against the Debtors. And the  
6 exculpation provisions are provisions that exculpate the  
7 representatives of the Debtors from liabilities related to their  
8 conduct in the case that is qualified by § 1125(b). And it  
9 carves out willful -- I'm sorry. I want to get the phrasing  
10 right because it's actually in here.

11 THE COURT: It's the standard.

12 MR. RUBIO: Yes. Gross negligence and willful  
13 misconduct. Right. And there's a carve out for that. And  
14 that's my understanding of how we kind of negotiated the release  
15 here, to kind of tracked that exculpation language.

16 THE COURT: Yes. All right. And actually, both your  
17 plan and your confirmation order are actually sort of a model of  
18 efficiency. I've grown used to having much larger both plans  
19 and confirmation orders. And that's actually not good that I've  
20 gotten used to that, because in fact it can be done in a much  
21 more efficient and straightforward and readable way. So, when I  
22 saw the objection, I was pretty much able to find your release  
23 exculpation and all those clauses very quickly, because they  
24 were very transparent. So, I actually may use your confirmation  
25 order, and your combined disclosure statement and plan as a

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1 legend against other folks who give me much, much longer  
2 documents by factors of say five. So, you may feel your ears  
3 burning at some point. All right. That's very helpful. Mr.  
4 Morrissey, anything else on the release and exculpation clause?  
5 And I think that sort of completes the circle.

6 MR. MORRISSEY: No, Your Honor. As a matter of fact,  
7 I just asked Mr. Rubio to make the presentation that he had made  
8 because we do have that anomaly where we have no discharge, but  
9 we still have a release and injunction and exculpation  
10 provision. But because the release applies to a grand total of  
11 one creditor in this case, the U.S. Trustee is certainly not  
12 going to object.

13 THE COURT: All right. So, anything else on  
14 additional language that we should discuss? Any party?

15 (Pause.)

16 THE COURT: All right.

17 MR. MORRISSEY: Your Honor, again, I know Your Honor  
18 was able to just read quickly, but that Paragraph 14, just in  
19 the interest of perhaps making the relatively short confirmation  
20 order even shorter, I'm not sure what it has, that Paragraph FF,  
21 which begins on Page 8 and continues into Page 9; or doesn't  
22 have.

23 THE COURT: Well, here's what I'll do. I don't want  
24 to discourage parties from resolving their dispute. It may be  
25 that's it's not necessary in light of the earlier language. And

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1 so, what I'll ask is, at the close of the hearing, counsel sit  
2 down. If you decide well, we actually don't need it, then take  
3 it out. But I don't want anybody to have angst as a result of  
4 the settlement. Sometimes these things are done rather quickly,  
5 and sometimes people have a little more need for a belt and  
6 suspenders in light of the speed in which events move. So, take  
7 a look and let me know maybe just in the five minutes after  
8 court here is done this morning. And from what I can tell, I  
9 think it probably not necessary in light of the language that's  
10 now contained on Pages 7 through 9, particularly Paragraph 'FF'.  
11 But just take a look. I don't want to raise somebody's blood  
12 pressure by taking it out, striking it right now. I think  
13 probably you can but give it a wordsmithing and see what you  
14 think. All right?

15 MR. RUBIO: Thank you, Your Honor.

16 THE COURT: And you were saying?

17 MR. JOHNSTON: Yes, Your Honor. On Page 8, just for  
18 clarification, Item 5?

19 THE COURT: All right.

20 MR. JOHNSTON: Speaking with Mr. Rubio, the idea here  
21 is that we're not going to pursue the Debtors in any fashion. A  
22 question came up in my mind about the discovery process. And  
23 what I understand from Mr. Rubio is essentially that the Debtors  
24 really aren't in possession and control, or custody of discovery  
25 items. That it would be an affiliate of the Debtors. Is that

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1 clear?

2 MR. RUBIO: This is Charles Rubio for the record.

3 That's an accurate representation. The Debtors are more or less  
4 a special purpose entity and an affiliate provides management  
5 and administrative services to the Debtors. So, they would be  
6 in control of administrative records.

7 THE COURT: All right. And can we name the affiliate  
8 in question?

9 MR. RUBIO: It's Casimir Resources Advisors LLC. And  
10 that's disclosed in the Plan. And Ponderosa TX Operating also  
11 provides. I would say they pay for payroll services for some of  
12 the employees of the Debtors.

13 THE COURT: All right. And so, as non-debtors,  
14 nothing here impacts Molori's rights to seek discovery against  
15 any of those non-debtors?

16 MR. RUBIO: Again, Charles Rubio for the record.  
17 That's correct.

18 THE COURT: All right.

19 MR. JOHNSTON: And, Your Honor, in terms of that  
20 hurried approach to things, that was something that I looked at  
21 last night and it looked good, and this morning over coffee.

22 THE COURT: (Laughing.)

23 MR. JOHNSTON: So, thank you.

24 THE COURT: That's fine. So, now you have that  
25 cleared up on the record. If you want to wordsmith and add

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1 something to Paragraph 5 of Page 8, that's fine, but I think you  
2 have it on the record. So, I think you're probably good to go.  
3 All right. Again, I appreciate these things are often late  
4 afternoon, then evening, then morning, and even now. That's  
5 sort of the nature of things. All right. Anything else that  
6 anybody else wants to raise in connection with the resolution of  
7 the objection?

8 (No response.)

9 THE COURT: All right. I don't see anybody rising.  
10 So, Mr. Rubio, maybe you can address any other confirmation  
11 issues?

12 MR. RUBIO: Yes, Your Honor. So, we're here today for  
13 the motion to confirm the Chapter 11 Plan, and also an objection  
14 to the New York City Department of Finance proof of claim, which  
15 they asserted as a priority claim. So, what I'd like to do is  
16 just given basically an opening argument and then give the Court  
17 the evidence to support the confirmation of plan.

18 THE COURT: Sure.

19 MR. RUBIO: And the claim objection. So, the Chapter  
20 11 case resolved a major dispute between the Debtors and the  
21 Petroleum Production Finance, Inc. and certain of its  
22 affiliates. Those parties we'll refer to collectively PPF.  
23 Prior to the petition date, the Debtors and PPF entered into a  
24 financing arrangement. The dispute between the Debtors and PPF  
25 was resolved through settlement that provided for the sale of

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1 the properties to PPF and release of claims between the parties.  
2 The settlement and sale of PPF had been previously approved by  
3 the Court, and that's at Docket Number 92. As a result of the  
4 settlement, the Debtors received cash proceeds in the amount of  
5 \$398,531.40. That cash, together with the cash that was already  
6 in hand with Debtors' estate will fund the confirmation of the  
7 plan, including payment of required fees, administrative  
8 expenses, and a distribution to the creditors.

9 Pursuant to the settlement with PPF, PPF is  
10 responsible for the unpaid Ad Valorem Taxed associated with the  
11 properties that they had acquired. As a result of the  
12 settlement, the Debtors are left with two wells known as the  
13 Chapman wells. These wells are not considered economically  
14 viable. And pursuant to the terms of the plan, the Debtors will  
15 fund the plugging of the wells which will cost \$20,000. The  
16 Debtors will then transfer these Chapman wells to Ponderosa TX  
17 Operating. And Ponderosa TX Operating has agreed to take on  
18 these wells and be responsible, and (inaudible) for these in the  
19 future.

20 Under the plan there's four classes of claims. Class  
21 one consists of allowed secured claims. As a result of the PPF  
22 settlement, the only taxing authority secured claim that the  
23 Debtor is responsible for is the Grey County Tax Office claim in  
24 the amount of \$262.34. Pursuant to the terms of the plan, the  
25 claim will be satisfied in full.

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1           Class two consists of priority unsecured claims. The  
2 only claim that falls within this class is the claim of the City  
3 of New York, Department of Finance. The City of New York has  
4 filed a proof of claim asserting taxes owed in the total amount  
5 of \$351,238.89. The Debtors filed an objection to this proof of  
6 claim. There has been no response to this objection. The proof  
7 of claim should be disallowed in its entirety. And I'll take  
8 just a few moments to run through the different aspects of the  
9 claim and why they should be disallowed.

10           First, there was a claim for a general corporation tax  
11 for the period of January 1, 2012 through December 31, 2014.  
12 The Debtor didn't come into existence until April of 2015, so  
13 for the time-period asserted, the Debtor wasn't in existence and  
14 that claim should not be allowed.

15           With respect to the general corporation tax, only  
16 entities that are taxable as corporations under the federal tax  
17 laws are obligated for this type of tax. The Debtors, Ponderosa  
18 Energy LLC, is a limited liability company taxed as a  
19 partnership and is not responsible for general corporation tax.  
20 The New York City Department of Finance also asserted a  
21 commercial rent tax in the amount of \$167,443.43. The  
22 commercial rent tax only applies to commercial rents that are in  
23 excess of \$250,000 on an annualized basis. The Debtors' rent is  
24 in the amount of approximately \$72,000 annually and is therefore  
25 below the threshold amount required to pay this tax.

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1           And then finally, the New York City Department of  
2 Finance asserted an unincorporated business tax for the period  
3 of January 1, 2012 through December 5, 2017. Again, the Debtor  
4 wasn't in existence until April of 2015. Therefore, the amounts  
5 asserted between January 1, 2015, and December 31, 2015, should  
6 not be allowed. And then with respect to the remaining portion,  
7 actually the whole portion, pursuant to New York City Admin Code  
8 § 11.502(c) (4), the Debtor is not deemed an incorporated  
9 business for the purpose of this tax because the Debtor is  
10 primarily engaged in the purchase, holding and sale of its own  
11 account of a real property. Accordingly, the Debtor does not  
12 owe the amount asserted for the unincorporated business tax.

13           Accordingly, all the amount asserted by the New York  
14 City Department of Finance should be disallowed in its entirety.  
15 And that is Class two, and the only claim in Class two.

16           THE COURT: All right. And I see there's a  
17 certificate of service of the objection, and it identifies being  
18 served on New York City Department of Finance, Enforcement  
19 Division at 345 Adams Street, 10<sup>th</sup> Floor, Brooklyn, New York.  
20 And that's actually the address on the claim that was submitted  
21 by the audit division.

22           The one thing I realize I don't have in the binder is  
23 the actual objection itself. Do you recall where that might be  
24 on the docket?

25           MR. RUBIO: I would need to look that up.

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1 MR. MORRISSEY: Your Honor, according to the quotes at  
2 ECF scheduled for today, it's Docket Number 101. It's the  
3 motion.

4 THE COURT: 101. Thank you. All right. So, the  
5 objection has the documentation and it obviously goes to the  
6 basis for the objection. What I don't have and the reason I was  
7 just checking on this, is I don't have a declaration, if I'm  
8 remembering correctly. So, all I would ask is -- I assume you  
9 can proffer that your witnesses, who are present in the  
10 courtroom, could testify as to the facts you've presented here  
11 this morning?

12 MR. RUBIO: That's correct, Your Honor. We will do  
13 that.

14 THE COURT: All right. So, anybody have any objection  
15 to me taking that as a proffer for what the witnesses would  
16 testify if they took the stand?

17 (No response.)

18 THE COURT: I don't see any objections. So, I'll take  
19 that as a proffer. I mean you certainly gave competent evidence  
20 to support your objection in the form of the documentation  
21 that's to the objection itself, which includes the office  
22 service agreement and some other documents. So, given all those  
23 circumstances, I'm happy to grant the objection by the Debtors  
24 to the City of New York's, Department of Finance's proof of  
25 claim in its entirety.

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1 MR. RUBIO: Okay. I do have a proposed order for that  
2 if you'd like me to hand it up. Or we can --

3 THE COURT: Yeah, you can hand it up. And you can  
4 submit the revised confirmation order, together with that order  
5 electronically in one shot after the hearing.

6 (Pause.)

7 MR. RUBIO: May I approach?

8 THE COURT: Yes, please. All right. Thank you very  
9 much. All right. What's next?

10 MR. RUBIO: Continuing on. So, Class 3 consists of  
11 the general unsecured claims. The Class is impaired under the  
12 plan and will receive the residual cash after the payment of  
13 administrative claims and the required payments under the plan.  
14 We did receive one vote, and that is an exhibit, and after  
15 making this presentation I'll offer the exhibits into evidence.

16 And then Class 4 consists of all membership interest  
17 of the Debtor under the plan. The membership interests are not  
18 receiving any distribution or being deemed terminated and  
19 cancelled. The piece payable to the U.S. Trustee pursuant to 28  
20 U.S.C. 1930(a)(6) incurred through confirmation shall be paid by  
21 the Debtor within seven business days after confirmation of the  
22 plan. And I have discussed this with Mr. Morrissey. The Debtor  
23 needs to catch up with its monthly operating reports, and we  
24 intend to do that by the seven-business day deadline.

25 THE COURT: All right.

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1                   MR. RUBIO: As part of the solicitation process is  
2 concerned, on June 28, the Court entered an order conditionally  
3 approving Debtors' disclosure statement and approving the  
4 solicitation process. On June 29, 2018, Christopher Murray, an  
5 attorney from my office, filed the certificate of service of the  
6 solicitation package. That's also included in our exhibit book,  
7 indicating that all parties to receive the solicitation package  
8 and notice of the confirmation hearing.

9                   There have been no objections filed to the plan other  
10 than the Molori objection. The Debtors contend that the  
11 disclosure statement contains adequate information provided  
12 under § 1125 of the Bankruptcy Code. And as indicated Class  
13 three has voted to accept the plan. We have received one vote  
14 in favor from CRL Pump and Supply. We did not receive any other  
15 votes in connection with the plan. Accordingly, Class 3 has  
16 voted 100 percent in favor of the plan. At this time, I would  
17 offer Debtors Exhibit 1 through 14 for the record, Your Honor.  
18 And I have given that to the Court.

19                  THE COURT: Yes. I believe I have all these Molori  
20 exhibits. So, let me just make sure I can find them in the  
21 binder, so I have the plan. So, I have the plan, I have the  
22 certificate of service, the report on balloting, the liquidation  
23 analysis, Exhibit A of the plan, the proposed order. So, where  
24 would I find the 14 exhibits in the binder?

25                  MR. RUBIO: I'm sorry, these are the 14 exhibits. You

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1 were just running through them.

2 THE COURT: All right.

3 MR. RUBIO: So, it goes on with the notice of the sale  
4 motion, the certificate of service of that sale motion, the  
5 certificate of service of the objection to the New York City  
6 Department of Finance proof of claim, a copy of the City of New  
7 York's Department of Finance proof of claim, the Ponderosa  
8 certificate of formation confirming that it in fact was formed  
9 in April of 2015, a copy of the office service agreement the  
10 ballot received from CRL Pump and Supply.

11 THE COURT: All right.

12 MR. RUBIO: So, the Debtors offer those 14 exhibits.

13 THE COURT: All right. Any objection?

14 (No response.)

15 THE COURT: Hearing none, I'll accept all those. And  
16 I believe they are all on the record in terms of ECF in one  
17 manner or another.

18 MR. RUBIO: That's correct, Your Honor.

19 THE COURT: All right.

20 MR. RUBIO: Except for the ballot itself. The CRL  
21 ballot is the only one that's not. Otherwise on the docket in  
22 one way.

23 THE COURT: All right. Do you want to file that after  
24 today's hearing? Or are you just content with the  
25 representations made for purposes of what you need for

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1 confirmation?

2 MR. RUBIO: I'm content with the representations made.

3 THE COURT: All right. Then that's fine. So, then  
4 it's 1 through 13, really that you're asking me to admit.

5 MR. RUBIO: Yes, that's fine, Your Honor.

6 THE COURT: All right. All right. So, I will admit  
7 all those exhibits as appropriate in support of confirmation.  
8 And as we've just discussed, they're all on ECF in one form or  
9 another. Some are exhibits to the plan, some are exhibits to  
10 proofs of claim, some are standalone ECF entries, including  
11 certificates of service. But also, the actual combined  
12 disclosure statement and plan of liquidation itself. All right.  
13 Anything else in connection with confirmation?

14 MR. RUBIO: Your Honor, we have Mr. Richard Sands,  
15 who's the manager of the Debtors in the courtroom, and I'm happy  
16 to proffer testimony to support the plan. In large part, it's  
17 going to parallel my arguments. And if the Court would like the  
18 additional evidence, I'm happy to proffer the testimony  
19 directly. Or if you want to take the statement and ask Mr.  
20 Sands whether he has anything to supplement, however, the Court  
21 would prefer to do this.

22 THE COURT: All right. And you're talking about the  
23 statements that you've already made here this morning?

24 MR. RUBIO: That's correct, Your Honor. And, again,  
25 Mr. Sands is here. He's available to --

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1                   THE COURT: Well, I'll take your statement as a  
2 proffer that everything you've said here this morning, that if  
3 so called to testify, Mr. Sands would under oath make those  
4 statements in support of confirmation.

5                   MR. RUBIO: Okay. Thank you, Your Honor.

6                   THE COURT: All right. Anything else in connection  
7 with confirmation?

8                   MR. RUBIO: That's all we have, Your Honor.

9                   THE COURT: All right. Anybody else wish to be heard  
10 in connection with confirmation?

11                  (No response.)

12                  THE COURT: I see no one rising. And I think on the  
13 record we resolved the objection that was filed. I don't see  
14 any objection from the U.S. Trustee's Office. And given all the  
15 facts and circumstances before the Court, and applying  
16 applicable law, I'm happy to approve of and confirm the plan of  
17 liquidation and essentially give final approval to this  
18 disclosure statement, which is already conditionally approved.  
19 I will not belabor each of the requirements of confirmation, as  
20 those are set forth as is the usual practice in the proposed  
21 order confirming the Chapter 11 liquidation plan, but sufficed  
22 to say, I conclude that the proponents of the plan here, the  
23 Debtors have complied with all applicable requirements for a  
24 confirmation, including § 1129, and that the plan has been  
25 proposed in good faith, and it's in the best interest of

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1 creditors. Those are some of the most common things that we  
2 spend time on. Again, the final approval of the disclosure  
3 statement, I make it clear that the plan contains, and the  
4 disclosure statement contains adequate information required by  
5 11 U.S.C § 1125.

6 So, as I said, I'm not going to belabor the rest of  
7 the requirements, which are again set forth in the order. And  
8 sufficed to say, I find that it satisfies all applicable  
9 requirements of law, and I'm happy to approve confirmation.

10 MR. RUBIO: Thank you, Your Honor.

11 THE COURT: All right. Thank you very much. So, I  
12 will wait for the final version that you showed me of the  
13 confirmation order, which memorializes the agreement that  
14 resolved the objection. And I will look to see whether  
15 Paragraph 14 is in or not in, which you will let me know after  
16 spending probably I'd say three minutes on that after today's  
17 hearing. And then I'll get that order entered, as well as  
18 getting the order entered that grants your objection to the New  
19 York City Department of Finance claim.

20 MR. RUBIO: Thank you, Your Honor.

21 THE COURT: All right. Mr. Morrissey?

22 MR. MORRISSEY: Your Honor, one miniscule matter, a  
23 scheduling matter. This case is pretty much a pot plan, and  
24 therefore, the Chapter 11 case shouldn't be long of this world.  
25 There's going to be a final fee application. And I don't know if

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1 the parties or the Court wanted to schedule a hearing for that  
2 now, as long as we're gathered together.

3 THE COURT: Well, I'll leave that to Mr. Rubio. What  
4 would you like to do?

5 MR. RUBIO: Pursuant to the terms of the plan, we have  
6 30 days to file our final fee application. We intend to file it  
7 then. And at that time, we can schedule with the Court.

8 THE COURT: All right.

9 MR. RUBIO: We'll also file a motion to close the case  
10 at that point in time.

11 THE COURT: At the same time. All right. So, consult  
12 your schedule and then call Ms. Ebanks to get that schedule, and  
13 I think we should be good to go. But I think you need to file  
14 your final fee application within 30 days.

15 MR. RUBIO: That's fine.

16 THE COURT: It doesn't need to be approved within 30  
17 days, it needs to be filed within 30 says.

18 MR. RUBIO: It needs to be filed. That's correct,  
19 Your Honor.

20 THE COURT: Right. So that's probably good, given  
21 that's not a matter which you want to have to explain to your  
22 significant other that you can't go on vacation because you have  
23 to run here for a fee application. But we'll get it scheduled  
24 promptly whenever you get it filed.

25 MR. RUBIO: And just for the record, we want to give

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1 our thanks to the Court, and its staff for helping us through  
2 this process. It's been a very smooth process, and in large  
3 part to the staff and the Court.

4 THE COURT: All right. Well, we're happy to do it.  
5 Don't tell anybody, it's actually our day job. So, that's fine.  
6 I appreciate the obvious hard work, and cooperation that the  
7 parties exhibited in trying to reach a resolution, ultimately  
8 reaching a resolution of the objection before today's hearing.  
9 I know that requires effort, as well as planning. And you would  
10 be surprised or maybe you wouldn't be surprised at the amount of  
11 times that people only talk to each other once they come to  
12 court. And so, I always want to make sure to thank folks for  
13 the obvious professionalism and civility that occurs when people  
14 are able to come into having solved problems that they have.  
15 So, thank you for that. All right. If that's all we have,  
16 thank you again. Especially folks who have travelled some  
17 distance. And have a wonderful rest of the summer.

18 MR. RUBIO: Thank you.

19 MR. JOHNSTON: Thank you, Judge.

20 THE COURT: Thank you.

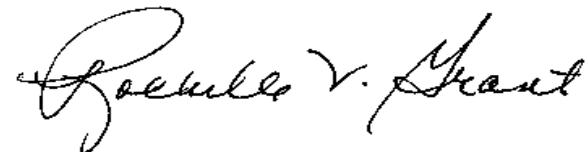
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1 CERTIFICATION

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3 I, Rochelle V. Grant, certify that the foregoing is a  
4 correct transcript from the official electronic sound recording  
5 of the proceedings in the above-entitled matter.

6 Dated: August 3, 2018

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9 Signature of Approved Transcriber

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